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December 22, 1997

BY HAND DELIVERY

Ms. Magalie Roman Salas
Secretary
Federal Communications Commission
1919 M Street, N.W.
Washington, D.C. 20004

**Re: Supplement to Petition for Rulemaking to Amend FM
Table of Allotments to Move the Community of License of
WHQK(FM), Marysville, Ohio, to Hilliard, Ohio**

Dear Ms. Salas:

On behalf of Citicasters Co. ("Citicasters"), the licensee of WHQK(FM), Marysville, Ohio, please find enclosed an original and four copies of a supplemental filing to the Petition for Rulemaking to amend the FM Table of Allotments, 47 C.F.R. § 73.202, to shift the allotment of Channel 289A from Marysville, Ohio, to Hilliard, Ohio, and to modify the license of WHQK(FM) to specify operations on Channel 289A in Hilliard, Ohio, which was submitted to the Commission on November 26, 1997. This supplement consists of a revised Exhibit 1 and Exhibit 2 relevant to that filing.

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HOGAN & HARTSON L.L.P.

Ms. Magalie Roman Salas
Secretary
December 22, 1997
Page 2

Please supplement the above-referenced filing with the revised Exhibits 1 and 2, which are enclosed. Please file stamp and return the additional copy of this supplement. Please contact the undersigned with questions.

Respectfully submitted,

HOGAN & HARTSON L.L.P.

By: 
F. William LeBeau

Attorneys for Citicasters Co.

Enclosures

EXHIBIT 1

The Commission reviews three factors in granting a request to change the FM Table of Allotments and a station's community of license. *See Report and Order, Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Parker and Port St. Joe)*, 11 FCC Rcd 1095 (1996) ("*Parker & Port St. Joe R&O*"). First, it considers whether the request is subject to competing applications. Under Section 1.420(i) of the Commission's Rules, a request to change a station's community of license is not subject to competing petitions where "the amended allotment would be mutually exclusive with the licensee's . . . present assignment," 47 C.F.R. § 1.420(i), and would not deprive a community of its sole "local transmission service." *See Amendment of the Commission's Rules Regarding Modification of FM and TV Authorizations to Specify a New Community of License*, 4 FCC Rcd 4870, 4874 (1989) ("*Change of Community R&O*"), *recon. granted in part*, 5 FCC Rcd 7094 (1990). Second, the proposed station must comply with the Commission's minimum distance separation requirements. *See Parker & Port St. Joe R&O* at ¶ 2. Third, the proposed change must not violate the statutory directive to "make such distribution of licenses . . . among the several States and communities as to provide a fair, efficient and equitable distribution of radio service to each of the same." 47 U.S.C. § 307(b).

The proposal in the foregoing Petition for Rulemaking (the "Petition") fulfills all of these criteria. The Petition requests that the Commission re-allot Channel 289A from Marysville, Ohio, to the city of Hilliard, Ohio, and

simultaneously assign the license of WHQK(FM), Marysville, Ohio, to Hilliard. The proposed change is not subject to competing applications, as it is mutually exclusive with the current operation of WHQK(FM), *see* Exhibit 2 at 3, and would still leave Marysville with its own local radio service, namely WUCO(AM), Marysville, Ohio. Second, the change, when considered in light of the recent request of WCHO-FM, Washington Court House, Ohio, to relocate its facilities, 1/ would comply with the Commission's spacing requirements. Third, the change would result in a more efficient and equitable distribution of local radio service throughout the communities of Ohio.

According to Commission precedent, a change to the FM Table of Allotments would result in a more efficient and equitable distribution of radio service when the proposal better reflects the populations of and broadcast services available to an area's communities. *See Parker & Port St. Joe R&O*, 11 FCC Rcd at ¶ 4. Specifically, the Commission examines whether the proposed change would ensure, in order of priority:

- 1) one full-time aural reception service;
- 2) a second full-time aural reception service; or
- 3) one local transmission service

1/ The proposed relocation of WCHO-FM was submitted simultaneously with the initial Petition on November 26, 1997. *See* FCC File No. BPH-971126IC.

to a community. 2/ If none of these priorities apply, the Commission will examine, as its fourth priority, other public interest factors, including which arrangement of allotments would make most efficient use of the spectrum and serve the most people. The current proposal implicates only the third and fourth criteria. Both support re-allotment of Channel 289A to Hilliard.

Under Section 307(b), the Commission presumes that every separate community needs at least one local transmission service. *See Parker & Port St. Joe R&O* at ¶ 6. A “limited exception” to this general presumption -- the Huntington Doctrine-- may sometimes apply to a suburban community within an Urbanized Area if that community is, for broadcast purposes, inseparable from the Area’s central city. *Memorandum Opinion & Order, Faye & Richard Tuck, Inc.*, 3 FCC Rcd 5374 at ¶¶ 22-23 (1988); *see also Parker & Port St. Joe R&O* at ¶ 7 (inquiring as to whether suburb was “so integrally related” with the central city area as to be credited with all transmission services of that area). Unless there is substantial evidence that the Huntington Doctrine applies, the Commission will “recognize a community’s presumptive need for local transmission service” and grant re-allotment. *See Faye & Richard Tuck, Inc.*, 3 FCC Rcd at ¶ 24.

2/ *See id.* Commission precedent accords equal weight to the second and third priorities in matters in which they are both pertinent. *See Change of Community R&O*, 4 FCC Rcd at 4873 & n. 8. Because Marysville, Ohio, is served by at least two radio broadcast services -- including, for example, WTVN(AM), Columbus, Ohio, and WUCO(AM), Marysville, Ohio -- the absence of any local transmission service for Hilliard is the most important consideration in this proceeding.

Commission precedent has established three basic criteria to determine whether the Huntington Doctrine should deny reallocation in a particular case:

- the size and proximity of the specified community to the central city;
- the signal population coverage at maximum power; and
- the interdependence of the community with the central city.

Faye and Richard Tuck, Inc., 3 FCC Rcd 5374 (1988). Of these criteria, the last is most important. See *id.* at ¶ 40. A showing that the selected community is largely independent of the nearby central city is alone sufficient cause for the Commission to treat the community as a separate municipality deserving of its own broadcast service. See *id.* at ¶ 28. In this case, a review of these criteria confirms that Hilliard, though within the Columbus Urbanized Area, merits its own broadcast service.

I. HILLIARD, ONE OF THE FASTEST GROWING CITIES IN CENTRAL OHIO, DESERVES ITS OWN BROADCAST SERVICE.

Hilliard is located in central Ohio, nine miles west of Columbus. The city's center lies across the Scioto River from Columbus, and outside of Columbus's "Outerbelt" -- Interstate 270 -- which circles Columbus and its immediate suburbs. A number of other communities with FM allotments are as close or closer to

Columbus than Hilliard, such as Gahanna, Grove City, and Upper Arlington, Ohio. 3/

As suggested by its location outside of Columbus's more immediate suburbs, Hilliard's residents do not depend on Columbus for private or public services, information or employment. Commission precedent focuses on eight factors for assessing whether a community within an Urbanized Area is dependent on the Area's central city:

- the extent to which community residents work in the central city;
- whether the community has its own newspaper or other local media;
- whether the community leaders and residents perceive the specified community as being separate from the larger metropolitan area;
- whether the community has its own local government and elected officials;
- whether the community has its own telephone book or zip code;
- whether the community has its own commercial establishments, health facilities, and transportation systems;
- the extent to which the specified community and the central city are part of the same advertising market; and

3/ See 47 C.F.R. § 73.202. In fact, Upper Arlington lies about halfway between Hilliard and Columbus, and Gahanna lies just six miles from Columbus. Grove City, like Hilliard, is nine miles distant from Columbus. Another city with an FM allotment, Westerville, Ohio, lies 10 miles away from Columbus. Finally, Worthington, Ohio, which lies inside the Outerbelt, has an AM allotment, which it shares with Columbus. The Commission has previously held that the presence of communities with existing allotments separating the proposed community from the area's central city is evidence that a proposed community is distinct from that city. See *Parker & Port St. Joe*, 11 FCC Rcd at ¶ 8. (All distances were found using the U.S. Geographic Name Server through the web site: <http://www.indo.com/distance>, which has been used in other Commission proceedings.)

- the extent to which the specified community relies on the larger metropolitan area for various municipal services such as police, fire protection, schools, and libraries.

As measured by these factors, Hilliard merits its own broadcast service.

Hilliard has its own city government, including its own elected mayor and city council, its own finance department, and its own recreation and parks department. It has its own school district, which includes both the city of Hilliard and some of its surrounding area. ^{4/} Within Hilliard proper are located the Hilliard City School District's two high schools -- Hilliard Darby and Hilliard Davidson -- its two middle schools, and several of its elementary schools, including a separate building that houses all of the District's sixth-grade classrooms. Hilliard operates its own police department and shares a fire department with the Norwich Township (in which Hilliard is located). It also maintains a number of its own medical facilities, including a MedOhio Urgent Care facility, the Hilliard Chiropractic Center, the Hilliard Foot & Ankle Center, the Mt. Carmel Health System -- Hilliard Branch, and the Hilliard Square Medical Center. Finally, the Central Ohio Transit Authority operates an express bus service for Hilliard, including both neighborhood and commuting routes.

^{4/} In fact, the extent of the school district may cause persons who do not live within the city limits of Hilliard to associate themselves or their families with the Hilliard City School District, and consequently, with Hilliard itself. Hilliard's zip code, which encompasses addresses beyond the city limits of Hilliard, furthers this extension of Hilliard into the surrounding communities, as the zip code -- 43026 -- typically results in a Hilliard post-office address, even if the address is not technically within the city limits of Hilliard. Because Hilliard has come to represent a region, as well as a city, the lack of its own broadcast service is even more significant.

Nor are the residents of Hilliard dependent on Columbus in their private arrangements. More than twenty churches and several civic organizations have a Hilliard address, including a Moose Home Lodge, an American Legion Memorial Post, an Avery Lodge F&AM, two Veterans of Foreign Wars Posts, a Knights of Pythias Champion Lodge, and a Redmen Lodge. Hilliard also has its own Chamber of Commerce. Although Hilliard has no local broadcast service, two weekly newspapers -- the Hilliard Northwest News and Hilliard This Week, each with a circulation of nearly 20,000 -- 5/ inform residents of the community's public affairs.

In addition, Hilliard is a commercial center in its own right. Compu-Serve, one of the largest on-line providers in the United States, has corporate offices in Hilliard. Red Roof Inns, Inc., a national hotel chain with locations in more than 30 states, is based in Hilliard. Other large employers in Hilliard include a division of Novus/Discover Card and the Gates-McDonald Company. Employment is also provided by the dozens of retailers and local service providers-- from restaurants to computers -- located in Hilliard. For example, a K-mart, a Sears Hardware, five hotels (not including Red Roof Inns), more than a dozen housewares or home equipment stores, and more than 40 restaurants -- from

5/ *Editor & Publisher International Year Book* at II-63 (77th Ed. 1997).

fast food to fine cuisine -- have a Hilliard address. 6/ In all, an estimated 15,400 persons are employed in Hilliard. 7/

As noted, a finding that a proposed community is distinct from a nearby city is the single most important consideration in determining whether the narrow Huntington exception should block a requested change in the Table of Allotments. *See Faye and Richard Tuck, Inc.*, 3 FCC Rcd at ¶ 28. Because, in this case, Hilliard is not dependent on Columbus for its government, its schools, its retail services, or its residents' employment, the Huntington Doctrine should not deny Hilliard its first local transmission service.

The other Huntington criteria -- signal population coverage and the relative size of the proposed community -- also support grant of the Petition. According to Exhibit 2 to the Petition, the proposal to shift WHQK(FM)'s allotment and operations to Hilliard would result in less than half of the Columbus Urbanized Area being within WHQK(FM)'s 70 dBu contour. Because WHQK(FM) does not seek to reach more than half of the Columbus Urbanized Area with its primary signal, the proposed reallocation should receive Section 307(b) preference. 8/ Moreover, Hilliard is a significant population center in its own right, with a 1990

6/ See, e.g., Yahoo Yellow Pages (available through the internet site: http://gnn.yahoo.com/Regional/U_S_States/Ohio/Cities/Hilliard).

7/ This figure was based on a study recently conducted by Hilliard's Finance Department, as described by Mr. Dave Delande, Deputy Finance Director of Hilliard in a telephone conversation on December 12, 1997.

8/ See generally *Parker & Port St. Joe R&O* at ¶ 8 (approving reallocation that would have resulted in signal encompassing 30 percent of local Urbanized Area).

Census reported population of 11,796. According to recent reports, it is among the fastest growing cities in Ohio, and its population was recently estimated as approximately 19,000. By contrast, Marysville has a 1990 Census population of only 9,656 people. Each of the cities of Gahanna, Grove City, Upper Arlington, and Westerville, Ohio already have FM allotments even though they are as close or closer to Columbus and do not have significantly larger populations than Hilliard. (For example, Grove City, which, like Hilliard, lies nine miles from Columbus, has a 1990 Census population of 19,661.) In addition, as noted, Hilliard is separated from Columbus by Upper Arlington -- a community which already has an FM allotment -- which is a circumstance that the Commission has found convincing grounds on which to grant re-allotment in the past. *See Parker & Port St. Joe R&O* at ¶ 8.

II. PUBLIC INTEREST REASONS ARE SUFFICIENT TO JUSTIFY THE PROPOSED REALLOTMENT.

Because Hilliard is a community distinct from Columbus, with its own identity and services, the proposed allotment should receive a Section 307(b) preference. The public interest advocates the grant of a first local transmission service to a growing community like Hilliard in order that the community will have a voice more attuned to its affairs and the affairs of the Hilliard City School District.

The Commission also should approve the proposal in order to facilitate more efficient use of the spectrum. As demonstrated in the attached Exhibit 2, the proposed move of WHQK(FM) would provide additional radio service to more than

470,000 persons within the station's new 60 dBu contour. Given that Marysville has a number of radio voices, that Hilliard has no local transmission service, and that the proposed shift would nearly double the number of listeners able to access a quality signal from WHQK(FM), *see* Exhibit 2 at 3, the Commission should grant re-allotment for public interest reasons alone.

IV. CONCLUSION

For the foregoing reasons, the Commission should grant the Petition and approve the proposed modification in WHQK(FM)'s license under Section 1.420(i) of the Commission's Rules.

Respectfully submitted,

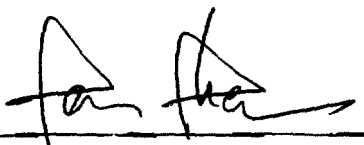
HOGAN & HARTSON L.L.P.

By: 
F. William LeBeau

Attorneys for Citicasters Co.

DECLARATION

I, Tom Thon, hereby declare under penalty of perjury
that the facts set forth in the foregoing Exhibit are true and correct to the best of
my knowledge, information and belief.


Name: Tom Thon
Title: Market Manager
Jacar Columbus

December 18, 1997

EXHIBIT 2

TECHNICAL EXHIBIT
IN SUPPORT OF
A PETITION FOR RULE MAKING
TO AMEND THE FM TABLE OF ALLOTMENTS
MARYSVILLE AND HILLIARD, OHIO

Technical Narrative

This technical narrative and associated exhibits have been prepared on station WHQK in support of a Petition for Rule Making to amend Section 73.202(b) by the reallocation of channel 289A (105.7 MHz) from Marysville to Hilliard, Ohio and the modification of the license (BLH-841118KL) of WHQK accordingly. As the requested change is mutually exclusive with the allotment of channel 289A at Marysville, Petitioner invokes the provisions of Section 1.420(i).

The following is a summary of the reallocation proposal:

- The community of Hilliard (1990 census population 11,796) will be provided with its first local aural transmission service and Marysville (1990 census population 9,656) will continue to have local service from fulltime station WUCO(AM).
- The proposed WHQK operation will not place a 70 dBu signal over 50% or more of the Columbus Urbanized Area.
- The number of persons within the WHQK 60 dBu contour will increase by 470,184 persons.

Proposed Change in Table of Allotments

Station WHQK is currently licensed to operate on channel 289A at Marysville, Ohio with an effective radiated power (ERP) of 2.5 kW and an antenna height above average terrain (HAAT) of 156 meters.

Marysville, is located in Union County, Ohio and has a 1990 U.S. Census population of 9,656 persons. Station WUCO(AM) is currently licensed (BL-840518AA) to serve Marysville. Therefore, adoption of the proposal will not deprive Marysville of its sole "existing" local service.

Hilliard is located in Franklin County, Ohio and has a 1990 U.S. Census population of 11,796 persons. Hilliard has no local FM or AM service and, therefore, Petitioner's proposal would bring first local broadcast service to Hilliard. Accordingly, Petitioner requests modification of the FM allocation table as follows:

<u>City</u>	<u>Present</u>	<u>Proposed</u>
Marysville, Ohio	289A	--
Hilliard, Ohio	--	289A

Compliance With FCC Rules

The attached Figure 1 is a tabulation of required separations pertinent to use of channel 289A at Hilliard.¹ The reference site complies with the Commission's minimum distance separation requirements contained in section 73.207 to all existing, authorized and proposed stations and allotments, except to the licensed WHQK facilities and the licensed facilities of WCHO-FM on channel 288A at Washington Court House, Ohio. However, WCHO-FM is concurrently filing an application to relocate transmitter site which will be fully-spaced to the instant proposal. Operation from the Hilliard reference site will provide the requisite city grade signal to all of Hilliard.

¹The geographic coordinates for Channel 289A at Hilliard are North Latitude 40°03'26" and West Longitude 83°08'36".

Figure 2 is a map which was developed using the 1990 U.S. Census Topologically Integrated Geographic Encoding and Referencing (TIGER)/Line files and which shows the area to locate channel 289A at Hilliard in compliance with the Commission's minimum distance separation requirements and city coverage requirements based on maximum Class A facilities (ERP 6 kW/HAAT 100 m). The Hilliard city limits shown on Figure 2 were also obtained from the TIGER/Line files.

Pursuant to Section 1.420(i), the Commission will consider petitions to modify the license of an FM station to specify a new community if the proposed allotment would be mutually exclusive with the present assignment. As the entire area to locate for channel 289A at Hilliard, depicted on Figure 2, would be short-spaced to the licensed WHQK site, the new allotment is mutually exclusive with the existing allotment.

Urbanized Area Considerations

Hilliard, Ohio is located within the Columbus Urbanized Area. However, the proposed 70 dBu contour will encompass less than 50% of the Columbus Urbanized Area.

60 dBu Gain Area

The authorized WHQK 60 dBu contour encompasses 498,569 persons within 2,515 square kilometers. The proposed 60 dBu contour will encompass 968,753 persons within 2,515 square kilometers. Therefore, adoption of the Petitioner's proposal will result in an increase in the number of persons within the 60 dBu contour of 470,184 persons.

Coverage Contours

The FM predicted coverage contours were calculated in accordance with the provisions of Section 73.313, except that uniform terrain was presumed in all directions.

Population and Area

The population within each FM 60 dBu (primary service) contour were calculated using a computer program that utilizes the 1990 U.S. Census database of "population centroids". The program adds the populations of those U.S. Census designated areas whose centroid was within each service area. The area within each FM primary service contour was calculated using a root mean square algorithm.

Conclusion

Channel 289A can be reallocated from Marysville, Ohio to Hilliard, Ohio in compliance with all applicable Commission Rules. The proposed 70 dBu contour will not encompass 50% or more of an Urbanized area. Furthermore, adoption of the proposal will increase the number of persons within the WHQK 60 dBu contour by 470,184 persons.

du Treil, Lundin & Rackley, Inc.

A Subsidiary of A.D. Ring, P.A.

Page 5

Marysville and Hilliard, Ohio

Therefore, Petitioner requests the reallocation of channel 289A from Marysville to Hilliard, Ohio and the modification of the WHQK license (BLH-941118KL).



W. Jeffrey Reynolds

du Treil, Lundin & Rackley, Inc.
240 North Washington Blvd.
Suite 700
Sarasota, Florida 34236

November 25, 1997

TECHNICAL EXHIBIT
IN SUPPORT OF
A PETITION FOR RULE MAKING
TO AMEND THE FM TABLE OF ALLOTMENTS
MARYSVILLE AND HILLIARD, OHIO

FM SEPARATION STUDY

Job Title : Proposed WHQK, Hilliard, OH Separation Buffer 32 km
FCC DB Date : 11/21/97
Channel 289A (105.7 MHz) Coordinates : 40-03-26 83-08-36

Call Status	City State	Channel FCC File No.	ERP(kW) HAAT(m)	Latitude Longitude	Bearing deg-Tru	Dist. (km)	Req. (km)
WYHT LIC	Mansfield OH	287B BLH6750	50. 113.0	40-46-09 82-32-23	32.6	94.22 25.22	69 CLEAR
WCHO FM LIC	Washington Court Hou OH	288A BLH4254	3.00 91.0	39-32-59 83-27-10	205.2	62.28 -9.72	72 SHORT ¹
Class B1 with respect to Canada-Accepted by Canada on 901108							
WCHO FM APP	Washington Court Hou OH	288A 105.5	6.00 100.0	39-24-01 83-26-48	199.7	77.44 5.44	72 CLOSE ¹
WMVRFM LIC	Sidney OH	288A BMLH920113KJ	4.9 47.0	40-18-04 84-12-21	287.1	94.47 22.47	72 CLEAR
Class B1 with respect to Canada-Accepted by Canada on 901108							
WHQK LIC	Marysville OH	289A BLH941118KL	2.50 156.0	40-10-26 83-14-42	326.4	15.60 -99.40	115 SHORT ²
Proposed to Canada as B1 on 901029 - Accepted by Canada 901226							
WLGCFM LIC	Greenup KY	289C3 BLH920420KC	11.5 146.0	38-35-44 82-51-20	171.2	164.17 22.17	142 CLEAR
WMJI LIC	Cleveland OH	289B BLH940823KS	16. 344.0	41-23-02 81-41-44	39.1	191.50 13.50	178 CLOSE
Grandfathered at 27Kw @ 274M Haat or Equivalent Accepted by Canada on 930105-Specially-negotiated, shortspaced channel-							
WPFBFM LIC	Middletown OH	290B BLH5985	34. 181.0	39-30-57 84-21-05	240.1	119.68 6.68	113 CLOSE
WVNO FM LIC	Mansfield OH	291B BLH911030KB	40. 166.0	40-45-50 82-37-04	29.4	90.27 21.27	69 CLEAR
WCKX LIC	London OH	292A BLH920828KF	6.0 100.0	39-53-05 83-25-23	231.3 SS	30.64 -0.36	31 CLOSE ³
ERP exceeds the maximum allowed under international agreements							

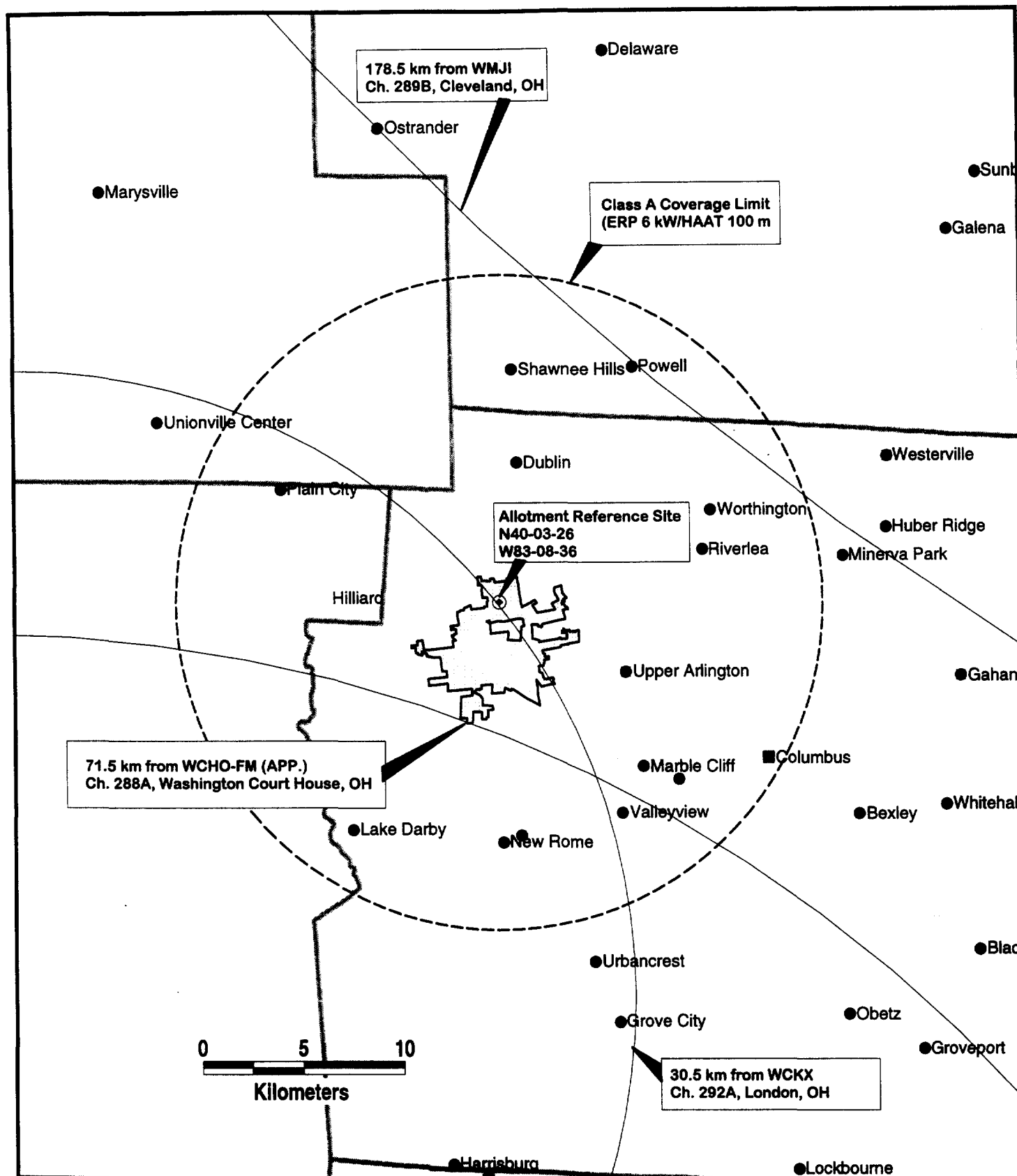
** End of separation study for channel 289A **

¹ WCHO-FM is concurrently filing an application to relocate transmitter site which is fully-spaced with the instant proposal.

² Existing WHQK site. Requested reallotment of channel 289A to Hilliard is mutually exclusive with Petitioner's current channel 289A allotment at Marysville, Ohio.

³ Complies with Section 73.207 when rounded to the nearest whole kilometer pursuant to Section 73.208(c) (8).

Figure 2



**AREA TO LOCATE
CHANNEL 289A
HILLIARD, OHIO**

du Treil, Lundin & Rackley, Inc. Sarasota, Florida